

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

X CORP., a Nevada corporation,

Plaintiff,

VS.

MEDIA MATTERS FOR AMERICA, a Washington, D.C. non-profit corporation, **ERIC HANANOKI**, and **ANGELO CARUSONE**,

Defendants.

§ § § § § § § § § § § § § § § §

Case No. 4:23-cv-01175-O

APPENDIX

- | | | |
|----|----------|--|
| 1. | 10/25/24 | Plaintiff-Appellee's Motion to Expedite Appeal |
| 2. | 10/29/24 | Order Granting Motion to Expedite Appeal |
| 3. | 11/05/24 | Briefing Notice |
| 4. | 11/05/24 | Notice of Oral Argument |

CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2024, a copy of this Appendix to Plaintiff's Unopposed Motion to Amend Scheduling Order was served on all counsel of record through the Court's CM/ECF system in accordance with the Federal Rules of Civil Procedure.

/s/ Christopher D. Hilton

Christopher D. Hilton

TAB 1

No. 24-10900

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

X CORP.,
Plaintiff-Appellee,
v.
MEDIA MATTERS FOR AMERICA, ERIC HANANOKI,
and ANGELO CARUSONE,
Defendants-Appellants.

On Appeal from the United States District Court
for the Northern District of Texas
Case No. 4:23-cv-01175-O

**PLAINTIFF-APPELLEE'S
MOTION TO EXPEDITE APPEAL**

JUDD E. STONE II
CHRISTOPHER D. HILTON
ARI CUENIN
MICHAEL R. ABRAMS
STONE | HILTON PLLC
600 Congress Ave., Suite 2350
Austin, TX 78701
(737) 465-3897

JOHN C. SULLIVAN
S|L LAW PLLC
610 Uptown Boulevard
Suite 2000
Cedar Hill, TX 75104
(469) 523-1351

*Counsel for Plaintiff-Appellee
X Corp.*

Plaintiff-Appellee X Corp. (“X”) respectfully requests that the Court expedite its consideration of this appeal. *See* 5th Cir. R. 27.5, 34.5. This is an interlocutory appeal of a discovery order concerning information that X seeks to use in discovery and at trial. Discovery is set to close on December 31, 2024, and trial is currently scheduled for April 7, 2025. In light of those upcoming dates and the importance of the discovery that is the subject of this appeal to X’s case, good cause exists for expedition. The parties have conferred, and Defendants do not oppose X’s proposed briefing schedule if this appeal is assigned to a January panel. If the case is assigned to a later panel, Defendants request that the current briefing schedule remain in place.

FACTUAL AND PROCEDURAL BACKGROUND

X brought claims against Defendants in the Northern District of Texas related to articles they published in November 2023 about X’s social media platform that X alleges were false and misleading. In discovery, X sought the production of documents about Defendants’ donors and communications with those donors. Such documents, X explained, would refute Defendants’ position that the district court lacks jurisdiction and is an improper venue to hear X’s claims. And on the merits, Defendants’ solicitation of donations from groups or persons hostile to X would supply potential evidence of malice and provide a basis for a factfinder to impose punitive damages.

Defendants objected to the production of donor-related documents. On September 27, 2024, the district court granted X's motion to compel, finding that Defendants waived their assertion of First Amendment privilege and alternatively concluding that X had overcome Defendants' asserted associational interests. Defendants moved to appeal the district court's order and for this Court to stay the order pending to appeal.

On October 20, 2024, this Court granted Defendants' motion to stay but noted that the donor information subject to the district court's order and sought by X could "be relevant to X Corp.'s theories." Op. 12. The Court has since issued a briefing notice under which Defendants' opening brief on the substantive appeal is due on December 2, 2024. Meanwhile, the district court's scheduling order sets a discovery cutoff of December 31, 2024, and a trial date of April 7, 2025. The district court has already granted one motion to amend the scheduling order and has indicated it is "unlikely to grant any further continuances." ECF No. 108 at 13.

ARGUMENT

The Court may expedite an appeal for good cause shown. 5th Cir. R. 27.5. And this Court has repeatedly expedited the consideration of appeals to accommodate an upcoming trial date. *See Texas Keystone, Inc. v. Prime Nat. Res., Inc.*, 694 F.3d 548, 552 (5th Cir. 2012); *Duffy & McGovern Accommodation Services v. QCI Marine Offshore, Inc.*, 448 F.3d 825, 827 (5th Cir. 2006).

Given the end-of-year discovery deadline and early April trial date, it would be difficult if not impossible for this Court to issue a timely ruling without expediting the appeal. Discovery is set to close on December 31, 2024 (although the parties may extend discovery by agreement), and trial is currently scheduled for April 7, 2025, and both dates are quickly approaching. For X to make any use of the donor information at issue in this appeal, a ruling must be delivered well before trial. Moreover, donor information may also lead to further discoverable information and warrant the issuance of third-party subpoenas, and as noted above, communications with or among donors may themselves be important evidence of malice to be presented at trial. Conversely, an untimely ruling would effectively prohibit X from using the donor information itself or seeking further discoverable information. Ultimately, this would result in a waste of the Court's and the parties' resources on a pyrrhic appeal.

X therefore proposes the following briefing schedule, which would allow the Court to hear argument on this appeal during the Court's January sitting:

- Appellants' Brief due on November 18;
- Appellee's Brief due on December 11; and
- Appellants' Reply Brief due on December 23.

For these reasons, X respectfully requests that the Court expedite this appeal so that it can be heard for argument by a merits panel in January or the first available panel thereafter.

CONCLUSION

X's motion for expedited proceedings should be granted.

Dated: October 25, 2024

Respectfully submitted.

/s/ Judd E. Stone II

Judd E. Stone II

Christopher D. Hilton

Ari Cuenin

Michael R. Abrams

STONE | HILTON PLLC

600 Congress Ave., Ste. 2350

Austin, TX 78701

Telephone: (737) 465-3897

judd@stonehilton.com

chris@stonehilton.com

ari@stonehilton.com

michael@stonehilton.com

John C. Sullivan

Texas Bar No. 24083920

S|L Law PLLC

610 Uptown Boulevard, Suite 2000

Cedar Hill, TX 75104

Telephone: (469) 523-1351

Facsimile: (469) 613-0891

john.sullivan@the-sl-lawfirm.com

CERTIFICATE OF CONFERENCE

I certify that counsel for Appellee has conferred with counsel for Appellants regarding this motion. Counsel for Appellants requested that Appellants' position be represented as follows: Appellants do not oppose X's proposed briefing schedule if this appeal is assigned to a January panel. If the case is assigned to a later panel, Appellants request that the current briefing schedule remain in place.

/s/ Michael R. Abrams

Michael R. Abrams

CERTIFICATE OF SERVICE

On October 25, 2024, this document was served via CM/ECF on all registered counsel and transmitted to the Clerk of the Court.

/s/ Judd E. Stone II

Judd E. Stone II

CERTIFICATE OF COMPLIANCE

This document complies with Federal Rule of Appellate Procedure 27(d)(2) because it contains 711 words, excluding the parts exempted by Federal Rule of Appellate Procedure 27(d)(2). This document complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 27(d)(1) because it has been prepared in a proportionally spaced, serifed typeface using Microsoft Word in 14-point Times New Roman font.

/s/ Judd E. Stone II

Judd E. Stone II

TAB 2

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

October 29, 2024

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 24-10900 X Corp v. Media Matters
USDC No. 4:23-CV-1175

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Casey A. Sullivan, Deputy Clerk
504-310-7642

Mr. Michael Abrams
Ms. Aria Branch
Mr. Cody C. Coll
Mr. Ari Cuenin
Mr. Christopher D. Dodge
Mr. Christopher D. Hilton
Ms. Abha Khanna
Mr. Andrew Patrick LeGrand
Mr. Jacob D. Shelly
Mr. Judd E. Stone II
Mr. John Clay Sullivan

United States Court of Appeals
for the Fifth Circuit

No. 24-10900

United States Court of Appeals
Fifth Circuit

FILED

October 29, 2024

Lyle W. Cayce
Clerk

X CORP.,

Plaintiff—Appellee,

versus

MEDIA MATTERS FOR AMERICA; ERIC HANANOKI;
ANGELO CARUSONE,

Defendants—Appellants.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:23-CV-1175

UNPUBLISHED ORDER

Before SMITH, GRAVES, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that appellee's motion to expedite the appeal is GRANTED. The merits panel will set the briefing schedule and will decide whether and when oral argument will be heard.

TAB 3

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

November 05, 2024

Ms. Aria Branch
Elias Law Group, L.L.P.
250 Massachusetts Avenue, N.W.
Suite 600
Washington, DC 20001

No. 24-10900 X Corp v. Media Matters
USDC No. 4:23-CV-1175

Dear Ms. Branch,

In light of the court order of 10/29/2024 granting the motion to expedite the above captioned appeal, please adhere to the following expedited briefing schedule.

- Appellants brief is due on 12/02/2024
- Appellee brief is due on 01/02/2025
- Appellants reply brief is due on 01/23/2025

The briefing notice issued on 10/22/2024 has been suspended.

Paper copies of all briefs will be due for filing immediately after electronic filing.

Record Excerpts: 5th Cir. R. 30.1.7(c) provides that the electronic PDF version of the record excerpts should contain pages representing the "tabs" identified in the index of the document. However, we remind attorneys that the actual paper copies of record excerpts filed with the court must contain actual physical tabs that extend beyond the edge of the document, to facilitate easy identification and review of tabbed documents.

Brief Covers: THE CASE CAPTION(S) ON BRIEF COVERS MUST BE EXACTLY THE SAME AS THE CASE CAPTION(S) ON THE ENCLOSED TITLE CAPTION SHEET(S). YOU WILL HAVE TO CORRECT ANY MODIFICATIONS YOU MAKE TO THE CAPTION(S) BEFORE WE SUBMIT YOUR BRIEF TO THE COURT.

Dismissal of Appeals: The clerk may dismiss appeals without notice if you do not file a brief on time, or otherwise fail to comply with the rules.

Appearance Form: If you have not electronically filed a "Form for Appearance of Counsel," you must do so within 14 days of this date. You must name each party you represent, See Fed. R. App. P. and 5th Cir. R. 12. The form is available from the Fifth Circuit's website, www.ca5.uscourts.gov.

ATTENTION ATTORNEYS: Direct access to the electronic record on appeal (EROA) for pending appeals will be enabled by the U S District Court on a per case basis. Counsel can expect to receive notice once access to the EROA is available. Counsel must be approved for electronic filing and must be listed in the case as attorney of record before access will be authorized. Instructions for accessing and downloading the EROA can be found on our website at <http://www.ca5.uscourts.gov/docs/default-source/forms/instructions-for-electronic-record-download-feature-of-cm>. Additionally, a link to the instructions will be included in the notice you receive from the district court.

Sealed documents, except for the presentence investigation report in criminal appeals, will not be included in the EROA. Access to sealed documents will continue to be provided by the district court only upon the filing and granting of a motion to view same in this court.

Guidance Regarding Citations in Pleadings.

5th Cir. R. 28.2.2 grants the Clerk the authority to create a standard format for citation to the electronic record on appeal. You must use the proper citation format when citing to the electronic record on appeal.

- A. In single record cases, use the short citation form, "ROA" followed by a period, followed by the page number. For example, "ROA.123."
- B. For multiple record cases, cite "ROA" followed by a period, followed by the Fifth Circuit appellate case number of the record referenced, followed by a period, followed by the page of the record. For example, "ROA.13-12345.123."
- C. Please note each individual citation must end using a termination of a period (.) or semicolon (;).

Brief Template: The clerk's office offers brief templates and the ability to check the brief for potential deficiencies prior to docketing to assist in the preparation of the brief. To access these options, log in to CM/ECF and from the Utilities menu, select 'Brief Template' (Counsel Only) or 'PDF Check Document'.

Reminder as to Sealing Documents on Appeal: Our court has a strong presumption of public access to our court's records, and the court scrutinizes any request by a party to seal pleadings, record excerpts, or other documents on our court docket. Counsel moving to seal matters must explain in particularity the necessity for sealing in our court. Counsel do not satisfy this burden by simply stating that the originating court sealed the matter, as the circumstances that justified sealing in the originating court may have changed or may not apply in an appellate proceeding. It is the obligation of counsel to justify a request to file under seal,

just as it is their obligation to notify the court whenever sealing is no longer necessary. An unopposed motion to seal does not obviate a counsel's obligation to justify the motion to seal.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Casey A. Sullivan, Deputy Clerk
504-310-7642

Enclosure(s)

cc w/encl:

Mr. Michael Abrams
Mr. Cody C. Coll
Mr. Ari Cuenin
Mr. Christopher D. Dodge
Mr. Christopher D. Hilton
Ms. Abha Khanna
Mr. Andrew Patrick LeGrand
Mr. Jacob D. Shelly
Mr. Judd E. Stone II
Mr. John Clay Sullivan

Case No. 24-10900

X Corp,

Plaintiff - Appellee

v.

Media Matters for America; Eric Hananoki; Angelo Carusone,

Defendants - Appellants

TAB 4

The Court has scheduled the following cases for oral argument in Room 209 of the John Minor Wisdom United States Court of Appeals Building, 600 Camp Street, NEW ORLEANS, LOUISIANA on the days shown:

COUNSEL FOR EACH PARTY MUST PRESENT ARGUMENT UNLESS EXCUSED BY THE COURT. CASES MARKED * ARE LIMITED TO 20 MINUTES PER SIDE; CASES WITH NO * ARE LIMITED TO 30 MINUTES PER SIDE UNLESS PREVIOUSLY GRANTED ADDITIONAL TIME. "SIDE" REFERS TO PARTIES IN THEIR POSITION ON APPEAL. IF IN DOUBT, CONSULT THE CLERK'S OFFICE.

THURSDAY, FEBRUARY 13, 2025 – COURT CONVENES AT 10:00 A.M.

*No. 24-10900 X Corp v. Media Matters for America, Et Al., Appellants.

LYLE W. CAYCE
CLERK OF COURT

NEW ORLEANS, LA-11/05/24-C8

IMPORTANT NOTES

1. Counsel presenting argument must report to Room 209 of the Wisdom Courthouse at 9:30 a.m.
2. Click on this link to listen live to an oral argument: [En Banc Courtroom](#). (Note, this link is active only during the hearing.) If the live stream is not functioning properly during the hearing, call 504-310-7804 to report the problem.
3. Click on this link to listen to a recording of the argument after the hearing: [Oral Argument Recordings](#). (Recordings are posted shortly after the hearing.)
4. To receive notices of actions in the case, follow instructions at these links:

Attorneys requesting notice of case activity click here: [Notice for Cases of Interest for Attorneys](#)

Non-attorneys requesting notice of case activity click here: [Notice for Cases of Interest for Non-Attorneys](#)

PLEASE VISIT OUR WEBSITE AT WWW.CA5.USCOURTS.GOV. FOR UPDATES TO THE CALENDARS AND TO OBTAIN THE NAMES OF THE PANEL JUDGES, WHICH WILL BE POSTED ON THE CALENDARS ONE WEEK BEFORE THE BEGINNING OF THE COURT WEEK.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

November 05, 2024

No. 24-10900 X Corp v. Media Matters
USDC No. 4:23-CV-1175

Dear Counsel,

The above referenced case has been scheduled for oral argument on February 13, 2025. It will be held in En Banc Courtroom at 10:00 a.m. The Oral Argument session number is C8.

Arguing counsel is responsible for electronically filing the Oral Argument Acknowledgment Form by no later than November 25, 2024. To submit your form, log in to CM/ECF and select the event 'Oral Argument Acknowledgment Form Filed.' Please include your session number when completing the Oral Argument Acknowledgment Form.

IMPORTANT: Please confer with all counsel on your side regarding the order and division of time before submitting the form. This step is critical to ensure you are providing the court with accurate information. The court will not allow any changes except in emergency situations.

The Oral Argument Acknowledgment Form is available on our website at <https://www.ca5.uscourts.gov/oral-argument-information/attending-oral-arguments>. Also available on this page are links to the 'Court and Special Hearings Calendar' and 'Court Policy on Electronic Devices'.

If you have not electronically filed a "Form for Appearance of Counsel," you must do so before filing the Oral Argument Acknowledgment Form. You must name each party you represent, See Fed. R. App. P. and 5th Cir. R. 12. The form is available at <https://www.ca5.uscourts.gov/appearanceform>. Attorneys appointed under the Criminal Justice Act are exempt from the requirement to file a Form for Appearance of Counsel.

To ensure that we can provide all pertinent materials to the court before argument, we must receive any additional filings in this office by noon on the workday immediately preceding the day your case is scheduled for argument. Exceptions will be made for emergencies only.

Notice to Court Appointed Counsel: Please review for information on CJA travel at <https://www.ca5.uscourts.gov/oral-argument-information/attorney-information/cja-travel-information>.

All questions regarding the scheduling and argument of this case should be directed to the assigned courtroom deputy, Kim Pollard at 504-310-7635.

Sincerely,

LYLE W. CAYCE, Clerk

Kim M. Pollard

By: _____

Kim M. Pollard, Calendar Clerk
504-310-7635